

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PUBLIC HEARING
37.86.3607 pertaining to case)	ON PROPOSED AMENDMENT
management services for persons with)	
developmental disabilities,)	
reimbursement)	

TO: All Interested Persons

1. On August 15, 2007, at 2:30 p.m., a public hearing will be held in the Sapphire Room, 2401 Colonial Drive, Helena, Montana to consider the proposed amendment of the above-stated rule.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on August 6, 2007, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; e-mail dphhslegal@mt.gov.

2. The rule as proposed to be amended provides as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.86.3607 CASE MANAGEMENT SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, REIMBURSEMENT (1) Reimbursement for targeted case management services for persons with developmental disabilities 16 years of age or older is provided ~~to the developmental disabilities program of the department in accordance with~~ (2) through (4) as specified in Section One, Rates of Reimbursement for the Provision of Developmental Disabilities Case Management Services for Persons 16 Years of Age or Older, of the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures.

~~(a) This rule does not govern reimbursement provided to contract providers of case management services for the developmental disabilities program of the department.~~

~~(2) A unit of service is 1 contact in person or otherwise with or on behalf of the client.~~

~~(3) The interim reimbursement for each fiscal year is based on a per unit of service rate determined by dividing the estimated total costs on a statewide basis for the delivery of case management services for the fiscal year by the estimated total number of units of service to be delivered on a statewide basis during that fiscal year.~~

~~(4) The final reimbursement for each fiscal year is the actual total cost for~~

delivery of the service for the fiscal year.

(2) The department adopts and incorporates by this reference Section One, Rates of Reimbursement for the Provision of Developmental Disabilities Case Management Services for Persons 16 Years of Age or Older, in effect July 1, 2007, of the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures, and published by the department as the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures, Section One, Rates of Reimbursement for the Provision of Developmental Disabilities Case Management Services for Persons 16 Years of Age or Older. A copy of section one of the manual may be obtained through the Department of Public Health and Human Services, Disability Services Division, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210.

AUTH: 56-6-113, MCA

IMP: 53-6-101, MCA

3. The department is proposing to amend ARM 37.86.3607, Case Management Services for Persons with Developmental Disabilities, Reimbursement, to establish in rule changes in the manner by which reimbursement is provided by the state for Medicaid funded developmental disabilities targeted case management services. The proposed rule change would implement a standard methodology for the adoption of a standard rate system of reimbursement for developmental disabilities targeted case management services.

This standard reimbursement is applicable for case management services delivered to Medicaid eligible and non-Medicaid eligible consumers. This proposed change is part of an overall effort by the department to reconfigure reimbursement for state funded developmental disabilities services. Previously, reimbursement for developmental disabilities targeted case management services had been based upon historical patterns of reimbursement that generally were derived from the historical circumstances of service development and the individualized cost basis needs of each contracted for provider of targeted case management services. The new standard rate system of reimbursement is being established to provide a common standard targeted case management service rate for all providers of this service based upon common cost factors affecting the cost of service delivery for the targeted case management providers. The new reimbursement methodology allows for a consistently applied rate for the delivery of the service without variations based upon nonessential or irrelevant historical factors.

The proposed rule change to ARM 37.86.3607 removes from the rule the historical rate methodology for developmental disabilities targeted case management services reimbursement and adopts the new rate of reimbursement based on a methodology incorporating studies of costs for service delivery. The new reimbursement methodology, along with the new rate of reimbursement, are presented in section one, "Rates of Reimbursement for the Provision of Developmental Disabilities Case Management Services for Persons 16 Years of Age or Older", published July 1, 2007, of the Developmental Disabilities Program Manual of Service Reimbursement

Rates and Procedures.

The case management rate has been established through the methodology presented in the manual. The methodology involves first the calculation based on collected data of an hourly cost rate for case management service delivery. That rate encompasses costs calculated for four cost centers in service provision: 1) case manager average hourly wages; 2) employment related expenses for case managers such as social security, workers' compensation, and employment taxes; 3) program supervision expenses such as supervisory salaries; and 4) general and administrative expenses such as property related costs, services, and supplies. This base hourly rate is \$32.35. This rate then in turn is multiplied by the average of monthly case management service hours delivered on a per consumer basis which is 5.029 hours. The product of that calculation is then divided by a caseload vacancy factor of .97. The resulting product arrived at after rounding constitutes the monthly case management reimbursement rate of \$167.72.

The 2007 Legislature has approved funding that supports this case management reimbursement rate. The current number of consumers for targeted case management services is approximately 2,702. There are currently four case management services providers in addition to the state of Montana.

The existing provisions and language in ARM 37.86.3607 that set forth aspects of the previous reimbursement practice for targeted case management are proposed for deletion. These deletions are necessary to assure clear and consistent implementation of the new reimbursement rate for targeted case management.

The proposed rule changes provide for the incorporation by reference of section one of the manual of service reimbursement rates and procedures for the department's program of developmental disabilities services. The adoption and use of a comprehensive manual facilitates the implementation by the department of the extensive rate changes for developmental disabilities services that are to be phased in over several years. The implementation of the case management reimbursement methodology is the first measure in that effort. Section one of the manual, setting forth the case management rates along with the rate methodology, has an effective date of July 2007. Section one of the manual may be obtained through the Department of Public Health and Human Services, Developmental Disabilities Program at 111 N. Sanders St. in Helena, MT, or by writing to that program at P.O. Box 4210, Helena, MT 59604-4210. In addition, copies of this section of the manual will be available at the public hearing on the proposed rule adoption.

Reimbursement for developmental disabilities case management services has varied among the established providers. The existing methodology of reimbursement was based on the historical sums of monies made available on a provider specific basis. The department has been advised by consumers, providers, and the Centers for Medicare and Medicaid Services (CMS) to generally seek more equitable rates among the various providers of developmental disabilities services. The department therefore proceeded to obtain consultation and study towards the end of designing

and implementing a reimbursement methodology that would standardize reimbursement.

The options available to the department with respect to the status of targeted case management reimbursement are three. The previously established historical rates encompassing variations in reimbursement among the established targeted case management providers could have been maintained with the potential that the lower reimbursement levels provided to certain providers would impact some consumers adversely over time. CMS, acting in its federal oversight capacity for Medicaid expenditures, conducts reviews of state programs funded with Medicaid monies. In conducting a review of Medicaid funded developmental disabilities services in Montana, CMS directed the state to resolve inappropriate inequities in reimbursement. Thus the status quo approach had to be replaced and was not a feasible option.

The second option available to the department was to adopt, as presented in this proposed rule, a standard methodology rate system for reimbursement that is constructed on calculable factors that rationally reflect major aspects and averaged costs of service delivery and removes the prior inequities. It is easier to budget prospectively under a rate system of reimbursement.

The third option was to reimburse providers of targeted case management on a cost basis. This approach to reimbursement would have merit over the current historically varied reimbursements. Cost basis reimbursement, however, is an intensive reimbursement methodology to manage for both the program and the providers. As compared to the standard rate approach, it necessitates more intensive accounting and reporting by the providers and, in turn, review and auditing by the department to assure that costs are accounted for, correctly reported, and reimbursement appropriately paid out. It can be a more contentious process. The department did not desire to engage in this approach for those reasons.

Beginning in the late 1990s, the department began to explore options and processes to enable consumers of developmental disabilities services to have opportunity to access provider services of their individual choice. Reimbursement for service delivery was contractually based and in part reflected historical circumstances of each provider. Lacking consistency and uniformity in reimbursement, the cost of service delivery can vary as between two similarly situated consumers based upon differing providers. This made it difficult to foster consumer choice. The developmental disabilities program convened a series of work and advisory groups made up of program staff, providers, consumers, family members of consumers, advocacy organizations, members of the Montana legislature, and a legislative fiscal analyst. The principal advisory committee reached consensus that the department should develop standard reimbursement rates for developmental disabilities services. The recommendations arising out of these review processes supported the department's decision to implement the second option of a standardized methodology for reimbursement of services based on a rate system.

4. The bill sponsor notice requirements of 2-4-302, MCA, do not apply. This proposal notice does not initially implement new or amended legislation.

5. Upon adoption of the amendments, the department intends to apply the proposed amendments retroactively to July 1, 2007. No detrimental effects are anticipated as a result of the proposed retroactive application date.

6. Interested persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on August 23, 2007. Data, views, or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@mt.gov. The department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

7. The Office of Legal Affairs, Department of Public Health and Human Services has been designated to preside over and conduct the hearing.

/s/ Cary B. Lund
Rule Reviewer

/s/ John Chappuis for
Director, Public Health and
Human Services

Certified to the Secretary of State July 16, 2007.